

E-filed 7/27/07

J. Michael Fitzsimmons, Esq. SBN 132343
 Kelly M. Laughrin, Esq. SBN 204246
 CAMPBELL, Warburton, Fitzsimmons,
 Smith, Mendell & Pastore
 64 W. Santa Clara Street
 San Jose, CA 95113
 408/295-7701
 408/295-1423 fax

 Attorneys for Plaintiffs,
 KARLONG CHAN, a minor, by and through his
 Guardian Ad Litem, YUEN CHONG CHAN; and
 YUEN CHONG CHAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE

KARLONG CHAN, a minor, by and
 through his Guardian Ad Litem, YUEN
 CHONG CHAN; and YUEN CHONG
 CHAN, aka EVA CHAN,

 Plaintiffs,

 v.

 CUPERTINO UNION SCHOOL
 DISTRICT, a California School District;
 et al.,

 Defendants.

Case No. C07-01837 HRL

**STIPULATION AND ORDER
 VACATING THE MOTION TO
 DISMISS IN ORDER TO ALLOW
 PLAINTIFF TO CORRECT ERROR IN
 THE COMPLAINT**

Plaintiffs, KARLONG CHAN (“KARLONG”), a minor, by and through his Guardian Ad
 Litem, YUEN CHONG CHAN, and YUEN CHONG CHAN, aka EVA CHAN (“EVA”), and
 Defendants, CUPERTINO UNION SCHOOL DISTRICT (“CUSD”), RUSS OTTEY
 (“OTTEY”), SARAH CROWE, (“CROWE”), COUNTY OF SANTA CLARA (“COUNTY”),
 EMQ CHILDREN AND FAMILY SERVICES (“EMQ”), RODERICK J. MACKENZIE, JR.
 (“MACKENZIE”), CARLOS AGUILA (“AGUILA”) by and through their respective attorneys
 of record, hereby stipulate to vacating Defendants’ Motions to Dismiss Complaint for Damages
 and Motions to Strike presently set in this matter for August 21, 2007 to allow Plaintiffs to
 amend their Complaint for Damages in order to substitute and replace “The Lanterman-Petris-

Short Act”, which was inadvertently and mistakenly referenced therein in paragraphs 20, 37 and 38, for “Children’s Civil Commitment and Mental Health Treatment Act of 1988”, which is the correct and proper Act at issue herein. Defendants shall then have thirty (30) days to file their responsive pleading pursuant to the filing of the First Amended Complaint, a [proposed] copy of which is attached hereto (Exhibit “A”) and incorporated herein by reference. The First Amended Complaint will be filed the following court day after the Order is filed.

A case management conference has been scheduled in the matter for September 11, 2007 with corresponding deadlines of August 8, 2007 to meet and confer under Fed. R Civ. Pro. 26 and August 29, 2007 to exchange initial disclosures.

Given that the case will not be at issue (due to the fact that there remains a dispute as to the pleadings) by the date of the Case Management Conference or prior to the other corresponding deadlines pursuant to Rule 26,

IT IS HEREBY STIPULATED AND AGREED, subject to the approval of the Court, that the hearing on Defendants, CUSD, OTTEY, CROWE, COUNTY, EMQ, AGUILA and MACKENZIE’s Motions to Dismiss Complaint for Damages and Motions to Strike currently set for August 21, 2007 at 10:00 a.m. be vacated and Plaintiffs be allowed to file their First Amended Complaint the following court day after the Order is filed. Defendants shall then have thirty (30) days to file their responsive pleading.

IT IS FURTHER STIPULATED AND AGREED that the Case Management Conference currently set for September 11, 2007 in Courtroom 2 at 1:30 p.m. be continued to December 18, 2007, in Courtroom 2 at 1:30 p.m. with corresponding deadlines of November 27, 2007 to meet and confer and December 11, 2007 to exchange initial disclosures and file a joint case management conference statement, pursuant to Fed. R. Civ. Pro. Rule 26.

Dated: July 26, 2007

CAMPBELL, Warburton, Fitzsimmons,
Smith, Mendell & Pastore

By: /s/
J. Michael Fitzsimmons
Kelly M. Laughrin,
Attorneys for Plaintiffs,

KARLONG CHAN and EVA CHAN

Dated: July 26, 2007

NEEDHAM, DAVIS, KEPNER & YOUNG, LLP

By: /s/
Mark Davis
Attorney for Defendants, CUPERTINO UNION
SCHOOL DISTRICT, RUSS OTTEY, and
SARAH CROWE

Dated: July 26, 2007

ERICKSEN, ARBUTHNOT, KILDUFF, DAY &
LINDSTROM, Inc.

By: /s/
Sharon L. Hightower
Attorneys for Defendants,
COUNTY OF SANTA CLARA, EMQ CHILDREN AND
FAMILY SERVICES, RODERICK J. MACKENZIE, JR.,
and CARLOS AGUILA

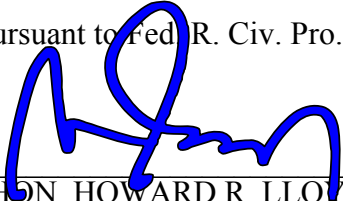
ORDER

Good cause appearing therefor:

IT IS HEREBY ORDERED that the hearing on Defendants, CUSD, OTTEY, CROWE, COUNTY, EMQ, AGUILA and MACKENZIE's Motions to Dismiss Complaint for Damages and Motions to Strike currently set for August 21, 2007 at 10:00 a.m. be vacated and Plaintiffs be allowed to file their First Amended Complaint the following court day after the Order is filed. Defendants shall then have thirty (30) days to file their responsive pleading.

IT IS HEREBY FURTHER ORDERED that the Case Management Conference currently set for September 11, 2007 in Courtroom 2 at 1:30 p.m. be continued to December 18, 2007, in Courtroom 2 at 1:30 p.m. with corresponding deadlines of November 27, 2007 to meet and confer (under Fed. R. Civ. Pro. Rule 26) and December 11, 2007 to exchange initial disclosures and file a joint case management conference statement pursuant to Fed. R. Civ. Pro. Rule 26.

Dated: 7/27/07

By: 
HON. HOWARD R. LLOYD
MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

PURSUANT TO GENERAL ORDER 45,

I, Kelly M. Laughrin, the ECF User transmitting and filing this Stipulation and [Proposed] Order Vacating the Motion to Dismiss Complaint for Damages and Motion to Strike In Order to Allow Plaintiff to Amend to Correct Error in the Complaint and continuing the Case Management Conference to December 18, 2007 with corresponding deadlines of November 27, 2007 to meet and confer under Fed. R. Civ. Pro. 26 and December 11, 2007 to exchange initial disclosures and file a joint case management conference statement, attest that I have obtained the concurrence of Sharon L. Hightower and Mark Davis on this filing. I declare under penalty of perjury.

Dated: July 26, 2007

CAMPBELL, Warburton, Fitzsimmons,
Smith, Mendell & Pastore

By: /s/
J. Michael Fitzsimmons
Kelly M. Laughrin,
Attorneys for Plaintiffs,
KARLONG CHAN and EVA CHAN